

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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|----------------------------------|---|---------------------|
| SCOTT FLETCHER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:13CV02064 JMB |
| |) | |
| CAROLYN W. COLVIN, |) | |
| COMMISSIONER OF SOCIAL SECURITY, |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Attorney's Fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. The parties consented to the jurisdiction of undersigned pursuant to 28 U.S.C. § 636(c).

On March 31, 2015, Terry I. Adelman, United States Magistrate Judge, to whom this case was previously assigned, reversed the Commissioner's decision and remanded Plaintiff's case to the Commissioner for further proceedings. The case has been reassigned to this Court and Plaintiff now seeks to recover attorney's fees in the amount of \$3291.20, which represents 17.6 hours of work by Plaintiff's counsel, Daniel Z. Lefton, and billed at the rate of \$187.00 per hour. (ECF No. 28-1) Plaintiff requests that the award of attorney's fees be made payable to counsel based upon the fee agreement and assignment he executed. (ECF No. 28-2)

Defendant has not filed a response to Plaintiff's motion, and the time to do has expired. In actions subject to the EAJA, the district court has the authority to award reasonable and necessary expenses associated with adjudicating a claim for social security benefits. *Kelly v. Bowen*, 862 F.2d 1333, 1335 (8th Cir. 1988). The EAJA has been interpreted to require that an award of fees under the statute be paid directly to the Plaintiff, as the prevailing party. *Astrue v.*

Ratliff, ___ U.S. ___, 130 S. Ct. 2521, 2527 (2010). Such fees may be subject to offset to satisfy any pre-existing debt owed to the United States. *Id.* (holding that EAJA fees are payable to the prevailing party and may be subject to offset to satisfy any pre-existing debt owed to the United States).

Upon review of the time records submitted by Plaintiff's counsel, the Court concludes that Plaintiff is entitled to an award of attorney's fee in the amount of \$3,291.20 pursuant to the EAJA. Defendant has neither objected to the payment of these fees directly to Plaintiff's counsel nor asserted that they are subject to offset for any pre-existing debt owed to the United States. Therefore, in accordance with Plaintiff's request, the fee award shall be delivered to Plaintiff's counsel, Daniel Z. Lefton at 1015 Locust St., Suite 808, Saint Louis MO 63101.

An appropriate Judgment will accompany this Memorandum and Order.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Application for Award of Attorney's Fees Pursuant to the Equal Access to Justice Act is **GRANTED** in the amount of \$3291.20. (ECF No. 28).

IT IS FURTHER ORDERED that said award shall be made payable to the Plaintiff.

Dated this 5th day of May, 2015.

/s/ John M. Bodenhause
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE